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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,096	03/13/2001	Gijsbert Joseph Van Den Enden	PHN 17,551	1082
24737	7590	08/14/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			AGUSTIN, PETER VINCENT	
P.O. BOX 3001				
BRIARCLIFF MANOR, NY 10510			ART UNIT	PAPER NUMBER
			2627	

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/787,096	VAN DEN ENDEN, GIJSBERT JOSEPH	
	Examiner	Art Unit	
	P. Agustin	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3,5-13,15 and 17-23 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1,3,5-13,15,17-19 and 21-23 is/are allowed.
- 6) Claim(s) 20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

1. Claims 1, 3, 5-13, 15 & 17-23 are now pending.
2. This application is a 371 of PCT/EP00/06619, filed July 12, 2000.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 14, 2006 has been entered.

Claim Objections

4. Claims 8, 11, 17 & 23 are objected to because of the following informalities:

Claim 8, line 1: "The method" should be --A method--.

Claim 8, line 7: "a method as claimed in Claim 6" should be --the method as claimed in Claim 6--.

Claim 11, line 1: "The method" should be --A method--.

Claim 11, lines 7-8: "a method as claimed in Claim 10" should be --the method as claimed in Claim 10--.

Claim 17, line 3: "the record carrier" should be --a record carrier--.

Claim 17, line 8: "the examined track" should be --an examined track--.

Claim 17, line 9: "the disc" should be --the record carrier--.

Claim 17, line 10: "the tracking signal" should be --a tracking signal--.

Claim 23, line 7: "it" should be deleted.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are, e.g., the necessary steps preceding the claimed step of skipping approximately 50 tracks between successive examined tracks. Note that the skipping step is performed after determining integrity of predetermined test tracks and adjacent test tracks in order to measure the size of a spot defect, as described, for example, in page 7, lines 4-21 of the Applicant's specification (see also previously presented claim 5).

Allowable Subject Matter

7. Claims 1, 3, 5-13, 15, 17-19 & 21-23 are allowed over the prior art of record.

Response to Arguments

8. Applicant's arguments filed April 14, 2006 have been fully considered but they are not persuasive.

The Applicant argues on page 16, paragraph 2 that the amendment to claim 20 does not affect the patentability thereof, and that the features of intervening claim 5 is not necessary for patentability. The examiner disagrees. As described in page 7, lines 4-21 of the Applicant's specification, the step of skipping approximately 50 tracks between successive examined tracks is performed after determining integrity of predetermined test tracks and adjacent test tracks in order to measure the size of a spot defect. These are essential method steps that cannot be omitted from the claim.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Agustin whose telephone number is 571-272-7567. The examiner can normally be reached on Monday-Friday 9:30-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. L. Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P. Agustin
Art Unit 2627



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